



Tennessee Historical Commission
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TENNESSEE HISTORICAL COMMISSION
REVIEW AND COMPLIANCE SECTION
CHECKLIST

Initial Consultation, Area of Potential Effects Determination, Historic Properties Identification

Federal agencies and applicants for Federal funds, licenses, permits and approvals should provide the following information to the Tennessee State Historic Preservation Office (SHPO) whenever they begin Section 106 consultation. They should also seek assistance from the SHPO in their efforts to identify historic properties within Areas of Potential Effects. SHPO authority to request such documentation and provide such assistance is codified in the National Historic Preservation Act; Section 101(E-J) and at 36 CFR Part 800.2(c)(1) and 800.16(v).

Here is a checklist of documents Federal agencies and applicants should submit to the SHPO. Print it and use it to ensure that you are assembling all necessary documentation. Below the checklist is a list of Consulting Parties you should notify of your undertaking and seek their comments before submitting your review request to the SHPO. See below for helpful definitions of words used in the checklist and the consulting Parties sections.

CHECKLIST:

1. A letter on agency or applicant letterhead with full contact information provided that requests SHPO Section 106 review of the undertaking. This letter shall include:_____

(a) The identity of the Federal agency funding, licensing, permitting, or approving the undertaking, the name and/or position title of the “Agency Official” as defined at 36 CFR Part 800.2(a), and the name, address, and telephone number of the agency staff person who may be contacted regarding the project._____

(b) If applicable, the identity of the applicant for Federal funding, licensing, or permitting and the name, address, and telephone number of the staff person employed by this applicant organization who may be contacted regarding the project. Please include documentation generated by the Federal agency

that authorizes the applicant to act as the Federal agency's representative in the initial Section 106 review process as defined at 36 CFR Part 800.2(c)(5)._____

(c) The location (street address, city, and county) of the project.

(d) The identities of and complete contact information for all Consulting Parties invited to participate in consultation relative to the undertaking and the names, addresses, and telephone numbers and email addresses of authorized representatives of these additional Consulting Parties who may be contacted regarding the project. Consulting Parties are listed at 36 CFR Part 800.2(c). Please include copies of all invitation letters to Consulting Parties and copies of any responses._____

(e) A description of the Federal agency's or applicant's formal procedure for involving the public

in the Section 106 review process as required by 36 CFR Part 800.2(d).____

(f) If applicable, a description of the formal process by which Section 106 review is to be melded into other appropriate Federal and state environmental reviews as discussed at 36 CFR Part 800.2(a)(4), 800.3(b), and 800.8._____

2. A USGS 7 1/2 minute series topographic map (be sure to include the name of the map) clearly indicating the boundary of the undertaking, the location of all project elements, and the boundary of the project's Area of Potential Effects. You may obtain the topographic map by contacting the Tennessee Department of Environment and Conservation, Division of Geology, Maps and Publications Sales Office at (615) 532-1516. Submit a USGS hard copy map or an 8" X 11" photocopy of a USGS hard copy map with the project's Area of Potential Effects clearly delineated, not a download from DeLorme, MapQuest, TopoZone, etc._____

3. Other suitably scaled maps or site plans as necessary to show the extent of the project and its locational relationship to its surroundings and environment.____

4. A project narrative that describes the undertaking under review in sufficient detail to enable a reader completely unfamiliar with the project or its location to gain a full understanding of the undertaking and all of its elements and their potential to affect directly and indirectly any historic properties within the Area of Potential Effects._____

5. Original chemical or digital photographs of the project Area of Potential Effects that are numbered and clearly keyed to one of the above maps or site plans._____

6. Any available information including the dates of construction of buildings either inside the project footprint or within view or sound of the project. Be sure to include photographs of buildings within the project's Area of Potential Effects._____

7. If applicable, a discussion of the results of Federal agency or applicant pre-consultation review of architectural, historical, or archaeological studies that have been previously produced. This should include:_____

(a) A list of historic properties located within the Area of Potential Effects that are either National Register of Historic Places listed or have been determined eligible for such listing. This list should include any above ground properties that appear marked on SHPO survey file maps._____

(b) Location of such properties shown on one of the maps or site plans that are submitted.

(c) If pre-consultation review has not discovered eligible or listed properties, a statement to that effect should be included. Properties identified and evaluated as not eligible for listing in the National Register should be listed and mapped._____

8. A discussion of any pre-consultation fieldwork, (e.g., reconnaissance survey, that may have been undertaken)._____

9. Written results of any internal Federal agency cultural resources staff review (for undertakings planned by land- or structure-controlling agencies with qualified cultural resources staffs)._____

10. Written results of any consultation with all additional Consulting Parties._____

11. Written results of any archaeological surveys that have been completed within the undertaking's Area of Potential Effects with a general indication of the location of any sites discovered and a determination concerning the potential of the site to be National Register eligible.____

Additional documentation produced as a consequence of a written request from the Tennessee State Historic Preservation Office to the agency or applicant. This documentation must be prepared by a person or persons in the

appropriate field who meets applicable professional standards and in consultation with this office (see "Standards and Guidelines for Archaeological and Architectural Resource Identification Studies") and definitions codified at 36 CFR Part 800.2(a)(1) and 800.2(a)(3):_____

(a). Historic/Architectural Survey and Inventory._____

(b) Archaeological Site Survey and Inventory._____

CONSULTING PARTIES:

36 CFR Part 800.2 requires you to consult with Consulting Parties in addition to the SHPO. Here is a list of links to potential Consulting Parties whom you should notify of your proposed project. Depending upon the location of your undertaking, you should seek the comments of appropriate Consulting Parties before you submit your review request to the SHPO.

<http://www.tennessee.gov/environment/hist/pdf/tncountyhistorians.pdf>

http://www.tennessee.gov/environment/hist/pdf/clg_list.pdf

<http://www.tennessee.gov/environment/hist/pdf/appexd.pdf>

http://www.tennessee.gov/tsla/history/tnhistorian/historian_dir.pdf

You should also notify representatives of any local government with jurisdiction over the area in which the effects of your undertaking may occur and seek their comments. Furthermore, you should notify any individuals or organizations with a demonstrated interest in your proposed undertaking who may participate as Consulting Parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties and seek their comments.

DEFINITIONS:

36 CFR Part 800.16 contains definitions of the words we use when we consult regarding a Section 106 review. These definitions may assist you when you prepare documents for SHPO review.

(a) *Act* means the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470-470w-6.

(b) *Agency* means agency as defined in 5 U.S.C. 551.

(c) *Approval of the expenditure of funds* means any final agency decision authorizing or permitting the expenditure of Federal funds or financial assistance on an undertaking, including any agency decision that may be subject to an administrative appeal.

(d) *Area of potential effects* means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

(e) *Comment* means the findings and recommendations of the Council formally provided in writing to the head of a Federal agency under section 106.

(f) *Consultation* means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act" provide further guidance on consultation.

(g) *Council* means the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.

(h) *Day* or *days* means calendar days.

(i) *Effect* means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

(j) *Foreclosure* means an action taken by an agency official that effectively precludes the Council from providing comments which the agency official can meaningfully consider prior to the approval of the undertaking.

(k) *Head of the agency* means the chief official of the Federal agency responsible for all aspects of the agency's actions. If a State, local, or tribal government has assumed or has been delegated responsibility for section 106 compliance, the head of that unit of government shall be considered the head of the agency.

(l)(1) *Historic property* means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

(2) The term *eligible for inclusion in the National Register* includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

(m) *Indian tribe* means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(n) *Local government* means a city, county, parish, township, municipality, borough, or other general-purpose political subdivision of a State.

(o) *Memorandum of agreement* means the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

(p) *National Historic Landmark* means a historic property that the Secretary of the Interior has designated a National Historic Landmark.

(q) *National Register* means the National Register of Historic Places maintained by the Secretary of the Interior.

(r) *National Register criteria* means the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR part 60).

(s)(1) *Native Hawaiian organization* means any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians.

(2) *Native Hawaiian* means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(t) *Programmatic agreement* means a document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex undertaking or other situations in accordance with Sec. 800.14(b).

(u) *Secretary* means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.

(v) *State Historic Preservation Officer (SHPO)* means the official appointed or designated pursuant to section 101(b)(1) of the act to administer the State historic preservation program or a representative designated to act for the State historic preservation officer.

(w) *Tribal Historic Preservation Officer (THPO)* means the tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

(x) *Tribal lands* means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

(y) *Undertaking* means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.